

ARTHUR E. WEEDEN, JR.

JANUARY 31, 1956.—Committed to the Committee of the Whole House and ordered to be printed

Mr. LANE, from the Committee on the Judiciary, submitted the following

R E P O R T

[To accompany H. R. 8308]

The Committee on the Judiciary, to whom was referred the bill (H. R. 8308) for the relief of Arthur E. Weeden, Jr., having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

This proposed legislation was transmitted to the Speaker of the House by the Department of the Army, and referred to this committee for consideration and after a careful review of the file your committee recommend favorable consideration of the bill. The letter from the Secretary of the Army is as follows:

DEPARTMENT OF THE ARMY,
Washington 25, D. C., November 9, 1955.

HON. SAM RAYBURN,
Speaker of the House of Representatives.

DEAR MR. SPEAKER: There is enclosed herewith a draft of a bill for the relief of Arthur E. Weeden, Jr. The submission of this proposed legislation is in accordance with procedures approved by the Secretary of Defense.

The purpose of this proposed legislation is to reimburse this Reserve officer for the loss sustained by him as the result of damage to his household goods. The loss occurred while the officer was on active duty in the Army of the United States and the household goods were bailed to an agent of the United States incident to transportation in connection with orders effecting a permanent change of station of this officer.

Records of the Department of the Army show that Arthur E. Weeden, Jr., was born at Edgewood, R. I., on July 20, 1919; that he enlisted in the Army on October 14, 1941, and remained on active duty until November 14, 1945, being honorably discharged in the grade of sergeant; that thereafter he received an appointment as second lieutenant in the Army of the United States, being assigned service number O2208015, and he served on active duty in that grade during the period of January 24, 1949, until December 31, 1949; that he served on active duty in the grade of sergeant first class (E-6) from January 4, 1950, until October 20, 1951, when he was discharged to commence active duty in his Reserve officer grade; and that he served on extended active duty in commissioned status during the period of October 21, 1950, until February 28, 1954, when he reverted

to inactive status in the grade of first lieutenant. At the present time he is serving on active duty in the grade of sergeant first class, his service number being RO11031638. He is married and has one minor child.

On February 17, 1953, while Arthur E. Weeden, Jr., was serving on active duty in the grade of first lieutenant, he received orders transferring him from the Artillery School, Fort Bliss, Tex., and assigning him to Camp Hanford, Wash. Pursuant thereto, and on orders of the transportation officer at Fort Bliss, his household goods were transported from his quarters in El Paso and stored in the warehouse of the Buckner Transfer & Storage Co., located at 2301 Mills Street, El Paso, Tex., on April 28, 1953. During the night of June 3, 1953, a fire broke out in this warehouse resulting in extensive damage to and destruction of various property stored therein, including the household goods belonging to Lieutenant Weeden.

On January 19, 1954, Lieutenant Weeden filed a claim with the Department of the Army under the provisions of the Military Personnel Claims Act of 1945 (59 Stat. 225), as amended (31 U. S. C. 222c), for reimbursement of his loss in the amount of \$4,224.76. The claim was processed within the Department of the Army under regulations prescribed by the Secretary of the Army in accordance with the Military Personnel Claims Act of 1945, *supra*. After giving effect to depreciation of the items involved in the claim, it was determined by this Department that the claim is meritorious in the amount of \$3,072.80. However, the act of July 3, 1952 (Public Law 439, 82d Cong.; 66 Stat. 322), placed a maximum limitation of \$2,500 on the amount which can be paid administratively under the provisions of the Military Personnel Claims Act of 1945, the only statute under which the claim could be considered. Accordingly, Lieutenant Weeden's claim has been allowed administratively in the amount of \$2,500, and a check in that amount has been sent to him. After the making of said payment there remains a balance of damages sustained by the claimant in the sum of \$572.80, for which he has not been compensated. There is no method by which he may be reimbursed for the remaining portion of this loss except through the enactment by the Congress of private legislation.

All of the household goods, for the damage to which the claim has been determined to be meritorious, were reasonable, useful, necessary or proper for the claimant to have owned and had in his possession under the attendant circumstances. The loss occurred incident to his service while that household goods were bailed to an agent of the United States and without any fault or neglect on the part of Lieutenant Weeden.

On April 28, 1953, when Lieutenant Weeden's household goods were delivered to the warehouse of the Buckner Transfer & Storage Co. in El Paso, Tex., that company, representing United Van Lines, Inc., issued to him a document which apparently insured against all risks of physical loss or damage to the property while it was stored and in transit to destination. However, after the loss was incurred, all liability therefor was denied completely by the Buckner Co., both on the theory of lack of negligence and under the purported insurance. Paragraph 13, Army Regulations 25-100, dated August 20, 1953, implementing the Military Personnel Claims Act of 1945, *supra*, provides as follows:

"Transfer of rights against carrier or insurer.—Whenever a carrier or insurer denies liability or fails to satisfy such liability and a claim for the property in relation to which the claim is made is approved under these regulations without deduction of the amount for which the carrier or insurer is deemed liable, the claimant by the acceptance of payment of such claim under these regulations will be deemed to have assigned to the United States to the extent of his right, title, and interest in and to any claim he may have against the carrier or insurer and to have agreed that he will, upon request, execute and deliver to the United States a written assignment thereof, together with the original or a copy of the bill of lading or contract, insurance policy, and all other papers which may be required to enable the United States to press the claim against the carrier or insurer. Upon settlement of his claim by the United States, the claimant will be considered to have agreed to refund to the Government the amount of any subsequent recovery from the carrier or insurer."

Inasmuch as the Department of Justice has under consideration the possibility of instituting action against the carrier or insurer, and in order not to risk placing in jeopardy and right, title, and interest in and to any claim which the United States has as a result of this fire, a proviso to that effect has been inserted in this proposed legislation.

The Congress, from time to time, has considered favorably claims of members of the Armed Forces for loss of personal property in excess of the \$2,500 limitation

placed upon administrative payments under the provisions of the Military Personnel Claims Act of 1945. Recent cases are Private Law 494, for the relief of Paul G. Kendall (H. R. 5025); Private Law 497, for the relief of Walter Carl Sander (H. R. 685); and Private Law 933, for the relief of Staff Sergeant Frank C. Maxwell (H. R. 7835), all enacted by the 83d Congress. An additional case, S. 3515, for the relief of John B. Gibbons, Jr., was under consideration by the committee on the Judiciary, United States Senate, at the close of the 2d session of the 83d Congress, but it was not acted upon. H. R. 5633, 84th Congress, for the relief of John L. Boyer, Jr., a bill to compensate that Reserve officer for the loss of personal property in excess of \$2,500, which also occurred in the fire at the warehouse of the Buckner Transfer & Storage Co. on June 3, 1953, was passed by the House of Representatives and was referred to the Committee on the Judiciary, United States Senate, on May 19, 1955, where it now is pending.

The total cost of this bill, if enacted, will be \$572.80.

The Bureau of the Budget advises that there is no objection to the submission of the proposed legislation for the consideration of the Congress.

Sincerely yours,

WILBER M. BRUCKER,
Secretary of the Army.

○

